

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MICHAEL B. FULLER and KEVIN G.  
JOHNSON,

Plaintiffs,

v.

KING COUNTY SUPERIOR COURT, *et al.*,

Defendants.

CASE NO. C07-628RSM

ORDER DENYING PLAINTIFFS'  
MOTION TO REMOVE STATE  
CASE TO U.S. DISTRICT COURT  
AND DENYING PLAINTIFFS'  
MOTIONS FOR PRELIMINARY  
INJUNCTION AND TEMPORARY  
RESTRAINING ORDER

This matter comes before the Court on plaintiffs' "Motion to Remove State Case to U.S. District Court Pursuant to 28 U.S.C. §§ 1441-1447 and TRO w/out Notice to Defendant - Extraordinary Circumstances Writ" (Dkt. #43), and plaintiffs' "Motions for Preliminary Injunction and Temporary Restraining Order and Order to Show Cause" (Dkt #44). Plaintiffs, appearing *pro se*, seek to remove to this Court all current state cases where plaintiff Kevin G. Johnson ("Mr. Johnson") and the State of Washington are adverse parties. Plaintiffs also seek either a preliminary injunction or a temporary restraining order ("TRO") preventing defendants from denying them access to King County Superior Court and the King County Law Library. (Dkt. #43 at 2); (Dkt. #44 at 1). Mr. Johnson also separately moves for a preliminary injunction or TRO preventing defendants from claiming an interest in real property. (Dkt. #44 at 2).

Having reviewed plaintiffs' motions, and the remainder of the record, the Court hereby

1 finds and orders:

2 (1) Plaintiffs' "Motion to Remove State Case to U.S. District Court Pursuant to 28  
3 U.S.C. §§ 1441-1447 and TRO w/out Notice to Defendant - Extraordinary Circumstances  
4 Writ" (Dkt. #43), and plaintiffs' "Motions for Preliminary Injunction and Temporary  
5 Restraining Order and Order to Show Cause" (Dkt. #44) are both DENIED. As an initial  
6 matter, the Court finds it worthwhile to notify *pro se* plaintiffs of their obligations under the  
7 Local Rules of the Court. Pursuant to Local Rule CR 7(b)(1), "[a]ll motions shall include in  
8 the caption (immediately below the title of the motion) the date the motion is to be noted for  
9 consideration upon the court's motion calendar." Plaintiffs failed to note their motions in  
10 accordance with the Court's rules. Nevertheless, plaintiffs are not prejudiced by their failure  
11 for the reasons set forth below.

12 28 U.S.C. §§ 1441 through 1447 govern the type of actions that may be removed to  
13 state court, and the procedures for removal. Section 1441 specifically provides in pertinent  
14 part that "*any civil action brought in State court of which the district courts of the United*  
15 *States have original jurisdiction*, may be removed by the defendant or the defendants, to the  
16 district court of the United States . . . where such action is pending." *Id.* (emphasis added).  
17 Given the plain language of the statute, Mr. Johnson's request for removal is DENIED  
18 because he fails to specify which state court proceedings he wishes to remove. Furthermore,  
19 because of this failure, the Court cannot determine whether it has original jurisdiction over any  
20 state court claim in which Mr. Johnson is an adverse party with the State of Washington.

21 With respect to plaintiffs' argument for a preliminary injunction or a TRO, Fed. R.  
22 Civ. P. 65 provides in pertinent part:

23 A temporary restraining order may be granted without written or oral notice to the  
24 adverse party or that party's attorney only if (1) it clearly appears from specific facts  
25 shown by affidavit or by the verified complaint that immediate and irreparable injury,  
26 loss, or damage will result to the applicant before the adverse party or that party's  
attorney can be heard in opposition, and (2) the [plaintiff] certifies to the court in  
writing the efforts, if any, which have been made to give the notice and the reasons  
supporting the claim that notice should not be required.

27 *Id.*

28 It is well established that preliminary injunctions or TROs are drastic remedies, and

1 only granted in the most extraordinary of circumstances. *See generally Perfect 10, Inc. v.*  
2 *Amazon.com, Inc.*, 508 F.3d 1146, 1158; *In re Estate of Ferdinand Marcos*, 25 F.3d 1467,  
3 1480 (9th Cir. 1994). The factors considered by a court in assessing whether to grant a  
4 request for a TRO are similar to the factors examined by the court in determining the merits of  
5 a motion for a preliminary injunction. *See National Football League Properties, Inc. v.*  
6 *Coniglio*, 554 F. Supp. 1224, 1226 (D.D.C. 1983).

7 In the instant case, plaintiffs have failed to sufficiently show any Irreparable injury.  
8 Plaintiffs merely make conclusory statements that such injury will result. However, a bald  
9 assertion without nothing more does not justify the granting of such an extraordinary remedy.  
10 In addition, plaintiffs fail to submit any legitimate reasons why providing notice to defendants  
11 in the instant case is not warranted. Accordingly, plaintiffs' motions for a preliminary  
12 injunction or a TRO are also DENIED.

13 (2) The Clerk is directed to forward a copy of this Order to all counsel of record and  
14 to *pro se* plaintiff Keith G. Johnson at the following address: 2765 E Cherry Street, Seattle,  
15 WA 98122; and to *pro se* plaintiff Michael B. Fuller at the following address: 827410, King  
16 County Regional Justice Center, Cell Block G, 620 W James, Kent, WA 98032.

17  
18 DATED this 21<sup>st</sup> day of February, 2008.

19  
20 

21 RICARDO S. MARTINEZ  
22 UNITED STATES DISTRICT JUDGE  
23  
24  
25  
26  
27  
28